

19 NCAC 02E .0611 is proposed for adoption as follows:

19A NCAC 02E .0611 REQUIREMENTS FOR BEAUTIFICATION AND REPLANTING CONDITIONS OF SELECTIVE VEGETATION REMOVAL PERMITS FOR OUTDOOR ADVERTISING AND BUSINESS FACILITIES.

(a) Any site qualifies for a beautification and replanting plan.

(b) For future selective vegetation removal applications at replanted sites, replanted materials may be removed only if partially blocking the view to a sign face. In this case, the Department will require plant substitutions on a one for one basis. All requests for plant substitutions shall be approved by the Department and installed according to the rules in this section.

(c) Submittal of a selective vegetation removal application shall be in accordance with GS 136.133.1 (c).

(d) This paragraph applies to all replanting plans except mitigating replanting plans as specified in 19A NCAC 02E.0609(b)(4). The caliper inches of existing trees to be removed, according to the applicant's site plan shall equal the caliper inches to be replanted by the applicant at the outdoor advertising site from which existing trees are requested to be removed. If the caliper inches of existing trees from the site plan exceed the density of the Department's replanting site design, the excess caliper inches of trees shall be delivered by the applicant to the Department according to the schedule described in Subparagraph (g)(6) of this Rule. If plant material other than trees is proposed, the Department may consider such substitution for the required caliper inches. The excess trees shall be planted and maintained by the Department at sites to be determined by the Department.

(e) For sites that qualify according to the replanting criteria described in this rule, the Department shall consult with the applicant and any local government that has requested to review and provide comments on selective vegetation removal applications pursuant to GS 136-93(d) or has notified the Department of its desire to review and provide comments on beautification and replanting plans for outdoor advertising sites. If the local government does provide comments on a beautification and replanting plan, the Department shall take the comments into consideration. If the local government does not make appropriate request for a review, the criteria stated in the rules in this section shall be followed for replanting determination.

(f) In consideration of differences in outdoor advertising sign structure heights, the Department shall maintain on file regionalized landscape design plans and plant lists as a guide for applicants. The applicant may submit one of the Department's plans or a proposed beautification and replanting plan prepared and sealed by a North Carolina licensed landscape architect. The Department's written approval, based on the American Standard for Nursery Stock for a minimum of a 1.5 caliper inch replanted tree, of the beautification, replanting, and maintenance plan shall allow the applicant to proceed with requested vegetation cutting, thinning, pruning or removal at the outdoor advertising site. If plant material other than trees is proposed, the Department may consider such substitution for the required caliper inches.

1 (g) The approved beautification and replanting plan becomes a part of the selective vegetation removal
2 permit pursuant to GS 136-93(b) and 136-133.1(e). All applicable requirements of the permit, including the
3 performance bond and insurance, shall continue to apply until all replanting and establishment
4 requirements are satisfied and accepted in writing by the Department. The Department shall approve the
5 replanting portion of the selective vegetation removal permit in writing detailing the requirements of the
6 beautification and replanting plan. The requirements include the following:

7 (1) The work for initial plantings and all future replacements must be adhered to by the
8 permittee or any or their employees, agents, or assigns according to International Society of
9 Arboriculture standards except as stipulated in the rules in this section. Initial and replacement
10 planting will be considered acceptable when the plants have been placed in the plant hole,
11 backfilled, watered, mulched, staked, and guyed. All plants of one species, which are shown on
12 the plans to be planted within a bed, shall be planted concurrently and the entire group shall be
13 completed before any plant therein is considered acceptable. Replacement planting consists of
14 replacing those plants which are not in a living and healthy condition as defined in these rules.

15 (2) The permittee must adhere to erosion control requirements, according to North Carolina
16 General Statutes, Article 4, Chapter 113A entitled: Sedimentation Pollution Control Act of 1973.

17 (3) All plant materials shall be approved in writing by the Department prior to arrival at the
18 outdoor advertising site or prior to excess trees being furnished and delivered to the Department.
19 The approval shall be based on the American Standard for Nursery Stock.

20 (4) All work is subject to NCDOT Division of Highways inspection and shall be scheduled
21 with the Department. A minimum 48-hour notification shall be provided to the Department by the
22 permittee before entering the right-of-way for any beautification and replanting plan requirements.

23 (5) Grinding of all cut stumps (to a minimum depth of four inches below ground level) must
24 be completed in the area of replanting during the preparation of the site, prior to initial planting.

25 (6) All initial and replacement plantings shall be installed during the first planting season
26 (November 1 to March 15) contemporaneous with or following the selective vegetation removal.
27 If replanting cannot be completed by the March 15 deadline, the replanting shall occur during the
28 next planting season. The same dates (November 1 to March 15) apply when the permittee
29 provides the Department with excess plant material at a site where existing caliper inches exceeds
30 the site design capacity.

31 (7) The permittee shall contact the Department to schedule a final replanting acceptance
32 inspection upon completion of any plant material installation. For one year from the date of the
33 initial planting acceptance for the entire replanting plan, the permittee must establish all plant

1 materials according to these provisions. Establishment for all initial or replacement plants shall
2 begin immediately after they are planted. The permittee shall be responsible for the area around
3 plantings for a distance of six feet beyond the outside edges of the mulch. Establishment shall
4 include cutting of grass and weeds; watering; replacement of mulch; repair or replacement of guy
5 stakes, guy wires, and water rings; and other work to encourage the survival and growth of plant
6 material. The permittee shall remove and dispose of dead plants from the replanting plan site
7 during the establishment period. Prior to the end of the one-year establishment period, the
8 permittee is responsible for contacting the Department to schedule a site meeting with
9 Departmental officials to identify plants to be replaced that are not in a living and healthy
10 condition. Plants do not meet the living and healthy condition requirement and need replacement if
11 25 percent or more of the crown is dead, if the main leader is dead, or if an area of the plant has
12 died leaving the character of its form compromised, lopsided, or disfigured. The permittee shall
13 replace, during the planting period, plant material needed to restore the planting to the original
14 quantity, size, and species of plant material. Any desired changes in plant material proposed by the
15 permittee must be requested in writing to the Department. The Department shall notify the
16 permittee in writing of the replacement plantings.

17 (8) At the conclusion of the one-year establishment period the Department shall issue a
18 written acceptance of the permittee's work and release the applicable bond. Then a one-year
19 observation period shall begin in which the permittee or sign owner shall maintain stability of the
20 original and replacement plantings to promote their continued livability and healthy growth. The
21 sign owner is responsible for replacement of plants not meeting the living and healthy condition
22 requirement during the observation period and in accordance with the dates of planting as stated in
23 the rules in this section.

24 (9) After the one-year observation period concludes, the Department shall notify the sign
25 owner if the permit requirement conditions have been met successfully.

26 (10) Replanted materials may be pruned according to the International Society of Arboriculture
27 standards; however, topping of trees or other vegetation is not allowed.

28 (11) This paragraph applies to all replanting plans except mitigating replanting plans as
29 specified in 19A NCAC 02E .0609(b)(4). Excess plants or trees furnished and delivered to the
30 Department, shall receive care and handling in accordance with the following: In digging,
31 loading, transporting, unloading, planting, or otherwise handling plants, the permittee shall
32 exercise care to prevent windburn; injury to or drying out of the trunk, branches, or roots; and to
33 prevent freezing of the plant roots. The solidity of the plant ball shall be preserved. Delivery of
34 excess plant material shall be scheduled with the Department, allowing a minimum three days
35 notification for each delivery. The permittee's responsibility for the furnished excess plants or

1 trees ends at the time the plant material is delivered to, inspected by, and accepted by the
2 Department.

3 (12) For mitigating replanting plans according to 19A NCAC 02E. .0609 (b) (4), trees and
4 other plant material for a proposed beautification and replanting plan taken from the Department's
5 landscape design plans and plant lists or prepared and sealed by a North Carolina licensed
6 landscape architect, may be of a projected mature height to reduce visibility limitations to outdoor
7 advertising sign faces.

8 (13) Should the outdoor advertising structure related to the selective vegetation permit be sold or
9 transferred, the new owner or permit holder is subject to the requirements in the General Statutes
10 and rules in this section, including those regarding planting, establishment, replacement or
11 renovation plantings, minimum living and healthy condition, and observation.

12 (14) Willful failure to substantially comply with the requirements of Paragraph (g) of this Rule
13 for the beautification and replanting plan shall subject the permittee to penalties prescribed in GS
14 136-133.4.

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16 History Note: Authority G.S. 136-93; 136-130; 136-133.4;
17 Temporary Adoption Eff. March 1, 2012
18 Eff. November 1, 2012